

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL FOSTER	:	Case No.1:04-CV-1032
Plaintiff,	:	
	:	JUDGE KATHLEEN O'MALLEY
v.	:	
GERALD T. MCFAUL, et al.	:	<u>MEMORANDUM & ORDER</u>
Defendants.	:	

During the course of trial, an issue arose regarding the adequacy of production during discovery. The Court reminds all parties that, on December 12, 2007, parties became bound by Rule 26 and the continuing obligations contained therein. While the Plaintiff initially filed his complaint pro se and Rule 26 does not attach to such a complaint, those obligations do attach if counsel is ultimately appointed. (*See* Doc. 301 (“[P]laintiff eventually obtained representation, taking him outside the exception to Rule 26.”)).

If any materials subject to Rule 26 have not yet been produced by either party, the Court hereby **ORDERS** that all such materials be produced to opposing counsel no later than 12:30 pm **SUNDAY, FEBRUARY 8, 2009.**

IT IS SO ORDERED.

s/Kathleen M. O'Malley

**KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE**

Dated: February 6, 2009